

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY  
CAMDEN VICINAGE**

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DANIEL AZCONA,

Plaintiff

v.

STATE OF NEW JERSEY,

Defendant

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Civ. No. 21-17123 (RMB/AMD)

**MEMORANDUM AND ORDER**

**RENÉE MARIE BUMB, CHIEF UNITED STATES DISTRICT JUDGE**

This matter comes before the Court upon a letter from pro se Plaintiff Daniel Azcona, a detainee confined in Camden County Correctional Facility, seeking to place evidence on the docket in this matter. (Docket No. 7). On September 17, 2021, Plaintiff submitted a letter to this Court, reporting alleged civil rights violations by the Camden County Superior Court, Drug Court, and the Camden County Prosecutor’s Office. (Compl., Docket No. 1). Plaintiff’s letter was received but not filed because Plaintiff did not pay the filing fee for a civil rights complaint or submit an application to proceed *in forma pauperis* under 28 U.S.C. § 1915(a). Moreover, when the Court sent legal mail to Plaintiff at his last known address, it was returned because he was no longer confined in Camden County Correctional Facility. (Docket Nos. 3, 6.) Thus, on February 24, 2022, this Court dismissed the case without prejudice under Local Civil Rule 10.1(a), because Plaintiff did not advise the Court of his new address.

Plaintiff’s recent letter to this Court provides his current address, and the Court will reopen this matter. Before the Complaint will be filed, Plaintiff must either pay the \$402 filing

and administrative fee for a civil rights action or submit an application to proceed without prepayment of the filing fee under 28 U.S.C. § 1915(a) (“IFP Application”). Plaintiff may also wish to file an amended complaint on the form provided because this Court is unsure exactly what claims Plaintiff is asserting against which defendants. Plaintiff should be advised that pursuant to 28 U.S.C. §§ 1915(e)(2)(B), 1915A(b) and 42 U.S.C. § 1997e(c), this Court is required to screen and dismiss complaints filed by prisoners that are frivolous or malicious, fail to state a claim upon which relief may be granted, or if the defendants are immune from suit. The State of New Jersey and the New Jersey Superior Court and Drug Court are immune from suit for money damages under 42 U.S.C. § 1983. *Villarreal v. New Jersey*, 803 F. App'x 583, 587 (3d Cir. 2020). Prosecutors also have absolute immunity from damages, if the claim involves work performed by the prosecutor that is “intimately associated with the judicial process.” *Fogle v. Sokol*, 957 F.3d 148, 160 (3d Cir. 2020) (quoting *Burns v. Reed*, 500 U.S. 478, 486-87 (1991) (quoting *Imbler v. Pachtman*, 424 U.S. 409, 430 (1976))).

To the extent that Plaintiff is seeking release from state custody by challenging a conviction and sentence, his remedy lies in a petition for writ of habeas corpus under 28 U.S.C. § 2254, after exhausting his state court remedies. Only under extraordinary circumstances, pretrial detainees in state custody may file a habeas petition under 28 U.S.C. § 2241 to seek release from custody. *Moore v. DeYoung*, 515 F.2d 437, 443 (3d Cir. 1975). A habeas petitioner must use the correct form for the relief he or she seeks, and the filing fee is \$5.00. Forms are available from the Clerk of the Court.

**IT IS** therefore on this **22nd day of February 2023**,

**ORDERED** that, having received Plaintiff's current address, the Clerk shall reopen this matter; and it is further

**ORDERED** that the Clerk shall administratively terminate this matter, subject to reopening upon Plaintiff's payment of the filing fee or submission of a properly completed application to proceed IFP under 28 U.S.C. § 1915(a); Plaintiff is granted leave to file an amended complaint within 30 days from the date of entry of this Order; and it is further

**ORDERED** that the Clerk shall serve a copy of this Order, together with an Affidavit of Poverty and Account Certification (Civil Rights), and a blank Prisoner Civil Rights Complaint form upon Plaintiff by regular U.S. mail. If Plaintiff instead wishes to file a habeas petition, he may request the correct form from the Clerk of Court.

s/Renée Marie Bumb  
**RENÉE MARIE BUMB**  
**CHIEF UNITED STATES DISTRICT JUDGE**